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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,438	03/17/2004	Stephen James Gowland	13070.21	3522

22913 7590 04/19/2006

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(F/K/A WORKMAN NYDEGGER & SEELEY)  
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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/802,438	GOWLAND, STEPHEN JAMES	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gregory J. Strimbu	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/2/04</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Australia on March 17, 2003. It is noted, however, that applicant has not filed a certified copy of the 2003201290 application as required by 35 U.S.C. 119(b).

***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to include the door as recited in claim 1. ***Claim Objections***

Claim 8 is objected to because a depended claim cannot depend from itself. Additionally, claim 4 is objected to because it refers to "claims 1", however, only one claim 1 is set forth above. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "open first and end" on line 2 of claim 1 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Is the applicant attempting to set forth first and second ends? Recitations such as "moveable between a first portion" on lines 10-11 of claim 1 render the claims indefinite because it is unclear how the door can be movable between a first portion and a second position. Recitations such as "said door opens said enclosure" on line 12 of claim 1 render the claims indefinite because it is unclear how the door can "open" the enclosure. It

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appears that the door prevents or allows access to the enclosure. It does not appear to "open" the enclosure. Recitations such as "in which said cross bar is received" on line 2 of claim 5 render the claims indefinite because it is unclear if the bar is received in the open end or the closed end. ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones. Jones discloses a pit cover comprising: a casing 6 having a peripheral wall (not numbered, but shown in figure 1) and an open first end (not numbered, but shown in figure 1); a cross bar 7 coupled to and extending across said peripheral wall on an inside of said casing, a cover plate 9 configured to cover said first end of said casing, said cover plate having: a first surface (not numbered, but comprising the upwardly facing surface as shown in figure 1), which when said cover plate covers said first end is located on an outside of said casing portion, and a second opposite surface (not numbered, but comprising the surface opposite the first surface); and, an enclosure 10 supported on said second surface and having an opening 11 through which a part 12, 17 of said cross bar 8 can extend into said enclosure; and, a door 15 coupled to said cover plate said door moveable between a first position where said door closes said enclosure and a second position in which said door opens said enclosure to allow access to said enclosure from said first surface, first and second catches 8, the part 17

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of the cross bar 8 is provided with a hole (not numbered, but shown in figure 2), the cover plate includes bracing (not numbered, but shown in figure 1 as the ribs on the second surface of the cover plate), each of the catches includes a slot (not numbered, but comprising the opening as shown in figure 1) at one end and closed at an opposite end (not numbered, but comprising the surface parallel and opposite to the slot), the cross bar 7 comprises a first length (not numbered, but shown as the planar upper surface of the cross bar 7) extending in a first direction and one or more catch portions (not numbered, but comprising the distal ends of the cross bar 7) at each end of said first length, at least one catch portion at each end extending in a direction non-parallel to said first direction as shown by the lower angled surface of the cross bar, said catch portions being receivable in said catches.

Claim 6 is anticipated by Jones, as set forth above, because the limitations of claim 6 are no more than product by process limitations and, as such, are met by the product as taught by Jones.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones as applied to claims 1 and 4-9 above, and further in view of Signorelli. Signorelli discloses a cover plate 300 comprising a biasing means 138 associated with a door 126 for biasing the door towards a closed position as shown in figure 1, the door 126 is pivotally attached to the cover plate.

It would have been obvious to one of ordinary skill in the art to provide Signorelli with a door, as taught by Signorelli, to increase the speed with which a user can gain access to the cross bar.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Isaacs, Forni, Embree, Hahne, Woods, Del Nero et al., Pate, and Slocum are cited for disclosing a cover plate including a door.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Gregory J. Strimbu". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Gregory J. Strimbu  
Primary Examiner  
Art Unit 3634  
April 14, 2006